

SENATE JUDICIARY COMMITTEE AMENDMENT NO. 1 by Crowe

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1763

House Bill No. 1778

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-120, is amended by deleting the period "." at the end of subsection (a)(4), substituting instead the word and punctuation "; or" and by adding the following new subdivisions:

(5) Is convicted in this state on or after July 1, 1995, of any offense classified in subsection (d)(1) as a violent offense; and

(6) Has at least one (1) prior conviction for an offense classified in subdivision (d)(1) or (d)(2) as a violent offense with the exception of the prior offense of robbery by use of a deadly weapon as listed in § 40-35-118.

SECTION 2. Tennessee Code Annotated, Section 40-35-120, is further amended by adding the following new subsection (d) and by relettering present subsections (d), (e), (f), (g) and (h) accordingly:

(d)(1) For purposes of subdivisions (a)(5) and (a)(6), the following offenses are classified as violent offenses:

- (A) First degree murder;
- (B) Second degree murder;
- (C) Especially aggravated kidnapping;
- (D) Especially aggravated robbery;
- (E) Aggravated rape;
- (F) Rape of a child;

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- (G) Aggravated arson;
- (H) Aggravated kidnapping;
- (I) Rape;
- (J) Aggravated sexual battery;
- (K) Especially aggravated burglary;
- (L) Aggravated child abuse;
- (M) Aggravated sexual exploitation of minor; or
- (N) Especially aggravated sexual exploitation of a minor.

(2) For purposes of subdivision (a)(6), the offenses which were repealed on November 1, 1989, and are listed in § 40-35-118 as Class A or B felonies against a person, with the exception of the offense of robbery by use of a deadly weapon, are classified as violent offenses.

SECTION 3 Tennessee Code Annotated, Section 40-35-120, is further amended by deleting original subsection (d)(1) in its entirety and substituting instead the following:

- (1) "Prior conviction" means a defendant serves and is released from a period of incarceration for the commission of an offense or offenses so that a defendant must, to qualify under subdivision (a)(1) and (a)(2), have served two (2) separate periods of incarceration for the commission of at least two (2) of the predicate offenses designated in subdivision (b)(1) or (b)(2) before committing an offense designated in subdivision (b)(1), or, to qualify under subdivision (a)(3)

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and (a)(4), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (c)(1) or (c)(2) before committing an offense designated in subdivision (c)(1), or to qualify under subdivision (a)(5) and (a)(6), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (d)(1) or (d)(2), with the exception of the prior offense of robbery by use of a deadly weapon as listed in § 40-35-118, before committing an offense designated in subdivision (d)(1);

SECTION 4. Tennessee Code Annotated, Section 40-35-120, is further amended by deleting from original subsection (d)(4) the language “(d)(1)” both times it appears and substituting instead the language “(e)(1)”.

SECTION 5. Tennessee Code Annotated, Section 40-35-120, is further amended by deleting from the second sentence of the original subsection (d)(2) the language “(b) or (c)” and substituting instead the language “(b), (c) or (d)”.

SECTION 7. Tennessee Code Annotated, Section 40-35-120, is further amended by deleting from original subsection (d)(3) the language “(b) or (c)” and substituting instead the language “(b), (c) or (d)”.

SECTION 8. Tennessee Code Annotated, Section 40-35-120, is further amended by deleting from the first and second sentence of original subsection (d)(4) the language “(b) or (c)” and substituting instead the language “(b), (c) or (d)”.

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SECTION 9. Tennessee Code Annotated, Section 40-35-120, is further amended by deleting from the second sentence of original subsection (d)(4) the language “(b) or (c)” and substituting instead the language “(b), (c) or (d)”.

SECTION 10. Tennessee Code Annotated, Section 40-35-120, is further amended by deleting original subsection (f) and substituting instead the following:

The court shall sentence a defendant who has been convicted of any offense listed in subdivision (b)(1), (c)(1) or (d)(1) to imprisonment for life without possibility of parole if the court finds beyond a reasonable doubt that the defendant is a repeat violent offender as defined in subsection (a).

SECTION 11. This act shall take effect on July 1, 1995, the public welfare requiring it.